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4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE EASTERN DISTRICT OF CALIFORNIA
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7 JAMES H. FISHER,
8 Plaintiff,
9 vs.
10 JAMES GOMEZ, et al.,
11 Defendants.

No. 2:96-CV-1850-RRB-EFB P

ORDER

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13 Plaintiff James H. Fisher ("Plaintiff"), a state prisoner
14 proceeding pro se, filed the above captioned civil rights action
15 seeking relief under 42 U.S.C. § 1983. The matter was referred to
16 a United States Magistrate Judge pursuant to 28 U.S.C.
17 § 636(b)(1)(B) and Local General Order No. 262.

18 On August 20, 2007, Magistrate Judge Edmund F. Brennan
19 filed Findings and Recommendations (Docket 146) herein, which were
20 served on all parties and which contained notice to all parties
21 that any objections to the Findings and Recommendations were to be
22 filed within fourteen days. Plaintiff has filed Objections to the
23 Magistrate's Findings and Recommendations at Docket 147.

Inasmuch as the Court concludes the issues before it are based in law, i.e., legal disputes; and, in accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, the Court has conducted a de novo review of the relevant pleadings filed in this matter. Having carefully and thoroughly reviewed the same, the court finds the Magistrate's Findings and Recommendations (Docket 146) to be supported by the record and by proper analysis. Moreover, the result would be the same whether treated as a motion for reconsideration or a renewed motion to dismiss.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The Findings and Recommendations at Docket 146, filed on August 20, 2007, are adopted in full;

2. Defendants' September 28, 2006, Motion to Dismiss at **Docket 139** is **GRANTED**; and

3. This action is **DISMISSED** without prejudice.

ENTERED this 2nd day of October, 2007.

S/RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE